

Message Text

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TO AMEMBASSY LONDON IMMEDIATE
AMEMBASSY BONN IMMEDIATE
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AMEMBASSY ROME IMMEDIATE
USMISSION EC BRUSSELS IMMEDIATE
AMEMBASSY PARIS IMMEDIATE
AMEMBASSY BRUSSELS IMMEDIATE
AMEMBASSY COPENHAGEN IMMEDIATE
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USMISSION IAEA VIENNA IMMEDIATE

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SUBJECT: EURATOM-IAEA SAFEGUARDS AGREEMENT

REFS: A. EC BRUSSELS 12427; B. EC BRUSSELS 12301;
C. IAEA VIENNA 10137 AND PREVIOUS

1. AS ADDRESSEES ARE AWARE, NUCLEAR NON-PROLIFERATION
IS A MAJOR U.S. FOREIGN POLICY OBJECTIVE. WE DESIRE
PROMPT ENTRY INTO FORCE OF EURATOM/IAEA VERIFICATION
AGREEMENT AND SATISFACTORY IMPLEMENTATION OF IAEA

SAFEGUARDS IN EC NON-NUCLEAR WEAPONS STATES (NNWS). MATTERS DISCUSSED IN REFTELS ARE OF CONSIDERABLE CONCERN BOTH BECAUSE THEY BEAR ON US AND EC MEMBER STATE TREATY COMMITMENTS UNDER NPT, AND BECAUSE OF POTENTIAL IMPACT ON IAEA SAFEGUARDS SYSTEM.

2. WE WELCOME ASSURANCES CONVEYED IN EC COMMISSION'S NOTE OF DECEMBER 16 THAT NATIONAL PROCEDURES PERMITTING SAFEGUARDS AGREEMENT TO ENTER INTO BINDING FORCE WILL BE COMPLETED "WITHIN A COUPLE OF MONTHS". VOLUNTARY SUBMISSION TO IAEA INSPECTION PERMITTING "DE FACTO" IMPLEMENTATION OF AGREEMENT AS OF JANUARY 1, 1977 APPEARS A HELPFUL INTERIM STEP, ASSUMING THERE IS

MAXIMUM PARTICIPATION BY ALL AFFECTED FACILITIES AND IT IS CLEARLY UNDERSTOOD THAT AGREEMENT WILL BE FULLY IMPLEMENTED IN ACCORDANCE WITH RIGHTS AND OBLIGATIONS GIVEN TO ALL PARTIES TO ACCORD. WE WOULD PREFER AN APPROACH THAT WOULD BRING AGREEMENT FULLY INTO FORCE (ALBIET PROVISIONALLY FOR SOME MEMBERS) IN CONTRAST TO ONE THAT WOULD LEAVE THE RIGHTS AND OPPORTUNITIES FOR IAEA OPEN TO LEGAL CHALLENGE OR QUESTIONS. HOWEVER, TO ALLOW EXECUTIVE BRANCH TO CONTINUE TO SUPPORT DELIVERY OF NUCLEAR SUPPLIES TO COMMUNITY, PROCEDURES TO BRING AGREEMENT INTO FORCE MUST BE CONCLUDED AS QUICKLY AS POSSIBLE. CONFIDENTIAL

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SATISFACTORY ARRANGEMENTS MUST ALSO BE MADE TO IMPLEMENT AGREEMENT WHEN IT DOES BECOME EFFECTIVE. WITHOUT REITERATING EXTENSIVE AND COMPLEX HISTORY RELATED TO PRECISE NATURE AND FORM OF IAEA SAFEGUARDS TO BE APPLIED UNDER AGREEMENT, WE CONSIDER FOLLOWING TO BE KEY TO US CONCERNS:

A. BASIS OF EURATOM/IAEA AGREEMENT (IN SPITE OF SOMEWHAT VAGUE LANGUAGE, E.G. PROTOCOL ARTICLES 11 AND 14) IS THAT IAEA MUST NOT DELEGATE ITS SAFEGUARD RESPONSIBILITIES AND IT MUST DRAW CONCLUSIONS BASED ON ITS OWN INDEPENDENT MEASUREMENTS, OBSERVATIONS AND RELATED SAFEGUARDS ACTIVITIES. AS REQUESTED IN PARA 3 OF IAEA VIENNA'S 09731 USG GAVE CONSIDERABLE STRESS TO IMPORTANCE OF THIS POINT WHEN -- THROUGH ITS GOVERNOR -- WE COMMENTED ON TEXT OF EURATOM/IAEA SAFEGUARDS AGREEMENT WHEN THAT AGREEMENT CAME BEFORE BOARD IN 1973 (SEE IAEA GOV/OR DATED JANUARY 29, 1973 PARA 37). WE HAVE INTERPRETED THE AGREEMENT AND SO STATED AT TIME -- TO ACCORD IAEA RIGHTS OF INDEPENDENT VERIFICATION.

B. FYI. JAPAN AND, BY IMPLICATION, OTHER NPT PARTIES EXPECT TREATMENT SIMILAR TO EURATOM (WHEN

ALL CIRCUMSTANCES, INCLUDING NATIONAL SAFEGUARDS SYSTEM, ARE SIMILAR). CLEAR RECORD ESTABLISHED BY IAEA/JAPAN AGREEMENT AND BY WRITTEN COMMUNICATIONS BETWEEN JAPAN AND IAEA GIVE JAPANESE STRONG CASE AND IAEA'S WILLINGNESS TO EXPLICITLY ACCORD JAPAN EQUAL TREATMENT WITH EURATOM WAS A CONCESSION DEEMED ESSENTIAL TO JAPANESE RATIFICATION OF TREATY. WE SEE NO PROSPECT FOR GAINING ACCEPTANCE OF CASE TO CONTRARY AT THIS PARTICULAR STAGE IN PROCEEDINGS, NOR WOULD WE BELIEVE IT DESIRABLE TO TRY IN THE FORSEEABLE FUTURE. END FYI.

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C. WE DO NOT BELIEVE THAT FULL AND EFFECTIVE IAEA VERIFICATION WILL BURDEN EUROPEAN NUCLEAR INDUSTRY MORE THAN INDUSTRIES OF COUNTRIES DEALING DIRECTLY WITH IAEA OR THROUGH NATIONAL SAFEGUARDS REGIMES LESS ELABORATE THAN EURATOM SYSTEM. WHILE WE CAN UNDERSTAND CONCERN OF EUROPEAN INDUSTRY TO AVOID EXCESSIVE BURDEN, WE DO NOT ACCEPT, AND DO NOT WANT TO LEND CREDENCE TO, PROPOSITION THAT APPLICATION OF SAFEGUARDS IS A SIGNIFICANT BURDEN TO AN INSPECTED NUCLEAR INDUSTRY. COSTS OF EURATOM SAFEGUARDS FULLY VERIFIED BY IAEA WILL BE NEGLIGIBLE IN RELATION TO BOTH COSTS AND BENEFITS OF NUCLEAR POWER GENERATION. AS EVIDENCE OF OUR CONVICTIONS IN THIS REGARD WE HOPE TO INITIATE DETAILED DISCUSSIONS SOON WITH IAEA SECRETARIAT ON PROCEDURES AND FACILITY ATTACHMENTS TO BE EMPLOYED IN IMPLEMENTING US VOLUNTARY OFFER. THE US IS PROVIDING ACTIVE TECHNICAL SUPPORT FOR STRENGTHENING IAEA SYSTEM AND WE HOPE TO SEE OUR OFFER IMPLEMENTED IN WAYS THAT WILL ACHIEVE THAT OBJECTIVE.

3. WE BELIEVE IT WOULD BE USEFUL FOR REASONS OF BOTH SUBSTANCE AND TIMING AT THIS JUNCTURE TO MAKE KNOWN US VIEWS AND CONCERNS TO COMMISSION AND TO MEMBER STATES. EC BRUSSELS IS REQUESTED TO MAKE EARLY HIGH-LEVEL APPROACH TO COMMISSION ALONG FOLLOWING LINES:

-- WE WELCOME ASSURANCES OF EARLY ENTRY INTO FORCE OF EURATOM/IAEA AGREEMENT CONTAINED IN COMMISSION'S NOTE OF DECEMBER 16. IN VIEW OF OUR NPT OBLIGATIONS, USG MUST BE CONCERNED OVER DELAY IN BRINGING INTO EFFECT IAEA SAFEGUARDS IN EUROPEAN COMMUNITY. IT WOULD BE VERY DIFFICULT TO SUSTAIN FAVORABLE EXECUTIVE BRANCH FINDINGS ON NUCLEAR EXPORTS TO EURATOM IN ABSENCE OF CLEAR INDICATIONS THAT AGREEMENT WILL COME INTO FORCE IN NEAR FUTURE. WE THEREFORE URGE CONCLUSION

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OF ALL PROCEDURES FOR BRINGING IAEA SAFEGUARDS INTO EFFECT AS SOON AS POSSIBLE. WHILE WE ARE GRATIFIED THAT MEMBER STATES OF COMMUNITY HAVE AGREED ON A NEAR TERM BASIS TO ACCEPT IAEA SAFEGUARDS, WE BELIEVE THAT IT IS IMPORTANT THAT THIS BE DONE IN A WAY SO THAT AGREEMENT IS BROUGHT INTO FULL OPERATIONAL EFFECT VERY PROMPTLY AND IN MANNER THAT ASSURES THAT IAEA INSPECTORATE IS NOT OPEN TO ANY CHALLENGE IN CARRYING OUT IMPORTANT RESPONSIBILITIES THAT IT IS ACCORDED UNDER AGREEMENT. WE OBVIOUSLY HAVE AN INTEREST IN

SEEING AGREEMENT EFFECTIVELY IMPLEMENTED AND UNDERSTAND THAT UNDER ITS TERMS IAEA IS ABLE TO START APPLYING SAFEGUARDS EVEN PRIOR TO TIME THAT FACILITY ATTACHMENTS AND SUBSIDIARY ARRANGEMENTS HAVE BEEN FULLY DEVELOPED. FROM A BROAD STANDPOINT OF PROMOTING EFFECTIVENESS OF NON-PROLIFERATION SAFEGUARDS WE BELIEVE THAT THIS IS AN IMPORTANT RIGHT THAT IAEA SHOULD EXERCISE UNDER ALL ITS NPT AGREEMENTS.

-- WITH REGARD TO CONTENT OF IMPLEMENTING PROCEDURES YET TO BE FINALLY AGREED, WE HAVE FOLLOWED DEVELOPMENTS HEREINA GREAT INTEREST. WITHOUT COMMENTING ON DETAIL AND FORM, SUBSTANCE OF DRAFT REGULATION PUBLISHED IN EC JOURNAL C/207 SEPTEMBER 2, 1976 IS, WE BELIEVE, GENERALLY SATISFACTORY. IN ANY EVENT WE BELIEVE TERMS OF IAEA-EURATOM AGREEMENT MUST BE CONTROLLING.

-- IN VIEW OF CONCERN EXPRESSED BY SOME, WE WOULD LIKE TO STRESS OUR CONCLUSION, REINFORCED BY DECLARATION OF NPT PARTIES AT NPT REVIEW CONFERENCE, THAT IAEA SAFEGUARDS PLACE NO SIGNIFICANT BURDEN, ECONOMIC OR OTHERWISE, ON DEVELOPMENT OF NUCLEAR POWER OR PEACEFUL NUCLEAR COOPERATION: THE US SAFEGUARDS CONFIDENTIAL

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OFFER IS EVIDENCE OF THIS CONVICTION.

-- WE SHARE COMMON CONCERNS TO ASSURE ADEQUACY OF IAEA SAFEGUARDS WORLD-WIDE BEARING IN MIND THAT AGENCY SYSTEM IS A KEYSTONE TO GLOBAL NON-PROLIFERATION EFFORTS. WE THEREFORE ASK EURATOM AND COMMUNITY NATIONS, TOGETHER WITH US, TO COOPERATE TO INSURE THAT PRACTICES AND PRECEDENTS ARE ESTABLISHED WHICH WILL ENSURE EFFECTIVENESS AND TECHNICAL CREDIBILITY OF IAEA SAFEGUARDS SYSTEM. IN THIS REGARD, THE US ASCRIBES HIGHEST IMPORTANCE TO THE PRINCIPLE THAT IAEA MIGHT BE ABLE TO EFFECT-

IVELY IMPLEMENT ITS RIGHTS OF INDEPENDENT VERIFICATION,
INCLUDING INSPECTION AND MEASUREMENT.

4. EC BRUSSELS SHOULD ALSO FOLLOW THIS LAST POINT
BE ASKING FOR MAXIMAL EURATOM FLEXIBILITY AND COOPER-
ATION IN ITS NEGOTIATIONS WITH IAEA RE SPECIFIC
SAFEGUARDS IMPLEMENTATION. IT IS ESSENTIAL THAT
FACILITY ATTACHMENTS FULLY PRESERVE IAEA'S NEED
TO MAKE INDEPENDENT MEASUREMENTS AND DETERMINATIONS'
AND DRAW INDEPENDENT CONCLUSIONS. YOU SHOULD FRANKLY

STATE THAT CURRENT IAEA PRACTICES PARTICULARLY IN TERMS
OF MAN DAYS OF EFFORT, ARE NOW SUBSTANTIALLY BELOW
WHAT US HAD EARLIER FAVORED, THAT WE ARE MAKING MAJOR
EFFORTS TO CORRECT DEFICIENCIES, AND THAT WE WOULD
BE GRAVELY CONCERNED BY FURTHER CUTBACKS OR RESTRIC-
TIONS.

5. FOR LONDON, BONN, LUXEMBOURG, ROME, BRUSSELS,
DUBLIN, COPENHAGEN, THE HAGUE, AND PARIS: YOU ARE
REQUESTED INFORM HOSTS AT APPROPRIATE LEVEL OF US
APPROACH TO COMMISSION AND SUBSTANCE OF US POSITION
PER PARA 3.

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6. FOR IAEA VIENNA: AT YOUR DISCRETION YOU MAY INFORM
KEY IAEA PERSONNEL (E.G. ROMETESCH AND THORSTENSEN)
OF SUBSTANCE OF US APPROACHES;

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